REMARKS

In section 3 of the Office Action, the Examiner rejected claims 1-80 under 35 U.S.C. §103(a) as being unpatentable over the Yamanaka published application.

The Yamanaka published application discloses a digital content billing system in which digital content, such as music files, video files, and game software titles, is downloaded to a plurality of users through networks and a billing for each downloaded digital content is performed according to the number of execution times of the downloaded digital content.

The digital content billing system includes a holder, a distributor, an advertiser, and an administrator communicating with one another over a network. The holder holds the right to let a user use the digital content. The distributor obtains the digital content from the holder and distributes the digital content to the user. The advertiser possesses an advertisement to be provided to the user. The administrator obtains the advertisement from the advertiser, receives an execution declaration of the digital content from the user, downloads the advertisement and a permission for the execution of the digital content to the user through the network, collects

an advertisement rate from the advertiser corresponding to the number of executions of the digital content by the user, and pays an execution fee to the holder based on the number of executions of the digital content by the user.

More specifically, Figure 1 shows a network 2 to which users 1a and 1b, holders 3a and 3b, distributors 4a and 4b indicate distributors, and administrators 6a and 6b are connected. Advertisers 5a and 5b provide advertisements to be supplied to the users 1a and 1b. The administrators 6a and 6b contract with the holders 3a and 3b and with the advertisers 5a and 5b, receive an execution declaration of the digital content from each of the users 1a and 1b, download the advertisements of the advertisers 5a and 5b and the execution keys received from the holders 3a and 3b through the network 2, collect an advertisement rate from each of the advertisers 5a and 5b for the advertisements based on the number of executions of the corresponding digital content by the users 1a and 1b, and pay execution fees to each of the holders 3a and 3b based on the number of executions of the digital content by the users 1a and 1b.

Figure 4 of the Yamanaka published application is a diagram showing operation of the digital content

billing system according to a first embodiment. The advertiser 5a distributes an advertisement to the administrator 6a. The holder 3b downloads digital content to the distributor 4b. The holder 3b also downloads the execution key, which is required to use the digital content, to the administrator 6a. The distributor 4b downloads the digital content to the user 1a.

Thereafter, when the administrator 6a receives an execution declaration from the user 1a who desires to execute the digital content distributed to the user 1a from the distributor 4b, the administrator 6a downloads the advertisement and the execution key to the user 1a. The downloaded execution key denotes a permission for execution of the digital content by the user 1a.

When the user 1a executes the digital content, the advertisement is automatically inserted into the digital content and is displayed with the digital content. Each execution of the digital content requires the above procedure.

Because the advertisement is always displayed with each execution of the digital content, the administrator 6a determines an advertising rate according to the number of executions of the digital content by the

user 1a, and the administrator 6a collects this advertising rate from the advertiser 5a. The administrator 6a also determines an execution fee for the digital content according to the number of executions of the digital content by the user 1a, and pays the execution fee to the holder 3b.

A second embodiment shown in Figure 10 is similar. In this embodiment, however, the advertisement is provided by the advertiser 5a to the holder 3b who combines the advertisement with the digital content and conveys both to the distributor 4b. The advertiser 5a pays the holder 3b, and the holder 3b pays the administrator 6a.

The third embodiment of Figure 14 is similar. In this embodiment, however, advertisements are provided by the advertisers 5a and 5b to the administrator 6a who conveys both advertisements and the encryption key to the user 1a. The advertisers 5a and 5b pay the administrator 6a, and the administrator 6a pays the holder 3b.

The Yamanaka published applications discloses other embodiments as well.

Applicants again are having difficulty fully understanding the Examiner's rejection of independent claims 1, 29, and 41 because the Examiner's has not

identified by reference numeral or otherwise the notes, the activities, the parties, or the sites in the Yamanaka published application. In other words, the Examiner does not use the reference numerals of the Yamanaka published application in reading these independent claims on the Yamanaka published application.

Therefore, applicants do not fully understand how the Examiner is applying the Yamanaka published application to independent claims 1, 29, and 41. The Examiner merely makes only general assertions about what the Yamanaka published application discloses and what it does not disclose.

However, applicants will attempt to test the application of the Yamanaka published application to independent claims 1, 29, and 41 and, thereby, determine whether independent claims 1, 29, and 41 are patentable over the Yamanaka published application.

Independent claim 1 is directed to a method in which a note is posted on a first computer at a content provider. The note has content, and the content provider is a first party. The method further includes electronically engaging in an activity arising from the content of the note. The activity is performed by a content recipient on a second computer, and the content

recipient is a second party. Payment is provided according to the method to a third party based upon the activity.

The Examiner is apparently suggesting that the advertisement disclosed in the Yamanaka published application is the note of independent claim 1. However, in this case, any activity electronically engaged in by any of the parties as disclosed in the Yamanaka published application does not arise from the content of the advertisement.

Nor does the Yamanaka published application suggest that anyone (the holder, the distributor, the advertiser, or the administrator) engage in an activity arising from the content of the advertisement or make a payment related to that activity. The Yamanaka published application, instead, is merely concerned with embedding advertisements in digital content and getting paid for doing so.

If, on the other hand, the Examiner is suggesting that the digital content disclosed in the Yamanaka published application is the note of independent claim 1, then any activity electronically engaged in by any of the parties disclosed in the Yamanaka published

application does not arise from the content of the digital content.

Nor does the Yamanaka published application suggest that any of the parties disclosed in the Yamanaka published application should engage in an activity arising from the content of the digital content. Again, the Yamanaka published application is merely concerned with embedding advertisements in digital content and getting paid for doing so. The Yamanaka published application does not offer payment to anyone if the user or anyone else engages in an activity arising from the content contained in the digital content.

Accordingly, because the invention of independent claim 1 is neither disclosed in nor suggested by the Yamanaka published application, independent claim 1 is patentable over the Yamanaka published application.

Moreover, neither the advertisement nor the digital content is posted at any site. The Examiner asserts that posting of something would have been obvious in order to accelerate the use of digital content and the collection of the execution fee.

Applicants have a number of problems with this assertion. For example, the Examiner states a mere conclusion in arguing that the use of digital content and

the collection of the execution fee would be accelerated if the advertisement or digital content were posted. However, the Examiner does not show how the use of digital content and the collection of the execution fee would be accelerated. Indeed, the use of digital content and the collection of the execution fee would not be accelerated if the advertisement or the digital content were somehow posted. The number of parties involved in moving content to the user alone would inherently prevent such acceleration.

As another example, the Examiner does not show how the advertisement or the digital content, if posted on a computer, could be moved through the network disclosed in the Yamanaka published application. The Examiner merely assumes that the advertisement or the digital content, if posted on a computer, could be moved in a way that would satisfy the objectives of the Yamanaka published application.

Because the Examiner has not shown how the use of digital content and the collection of the execution fee would be accelerated if the advertisement or the digital content were posted, and/or because the Examiner has not shown how the advertisement or the digital content, if posted on a computer, could be moved in a way

that would satisfy the objectives of the Yamanaka published application, the Examiner has not made out a *prima facie* case of obviousness of independent claim 1.

For this reason also, independent claim 1 is patentable over the Yamanaka published application.

Independent claim 29 is directed to a method in which a note is posted at a content provider, in which a note program is executed at a content recipient so as to download the note without resort to a cut or copy operation and without downloading a web page of the content provider, and in which payment is provided to a third party based upon the note. The content provider is a first party, and the content recipient is a second party;

As indicated above, the Examiner is apparently suggesting that the advertisement disclosed in the Yamanaka published application is the note of independent claim 29. Assuming then that the advertisement is somehow posted at the holder, the distributor, the advertiser, or the administrator, the Examiner does not then show how the Yamanaka published application further suggests downloading the advertisement to the user without resort to a cut or copy operation and without downloading a web page of the content provider posting

the advertisement. Indeed, the Examiner is completely silent on this aspect of independent claim 29.

If, on the other hand, the Examiner is suggesting that the digital content disclosed in the Yamanaka published application is the note of independent claim 29, then the Examiner does not show how the Yamanaka published application further suggests downloading the digital content to the user without resort to a cut or copy operation and without downloading a web page of the content provider posting the digital content. As indicated above, the Examiner is completely silent on this aspect of independent claim 29.

Accordingly, because the invention of independent claim 29 is neither disclosed in nor suggested by the Yamanaka published application, independent claim 29 is patentable over the Yamanaka published application.

Moreover, as discussed above, neither the advertisement nor the digital content is posted at any site. The Examiner asserts that such would have been obvious in order to accelerate the use of digital content and the collection of the execution fee.

As explained above, applicants have a number of problems with this assertion. For example, the Examiner

states a mere conclusion about the use of digital content and the collection of the execution fee being accelerated if the advertisement or digital were posted. However, the Examiner does not show how the use of digital content and the collection of the execution fee would be accelerated. Indeed, the use of digital content and the collection of the execution fee would not be accelerated if the advertisement or digital content were somehow posted. The number of parties involved in moving content to the user alone would inherently prevent such acceleration.

As another example, the Examiner does not show how the advertisement or the digital content, if posted on a computer, could be moved through the network disclosed in the Yamanaka published application. The Examiner merely assumes that the advertisement or the digital content, if posted on a computer, could be moved in a way that would satisfy the objectives of the Yamanaka published application.

Because the Examiner has not shown how the use of digital content and the collection of the execution fee would be accelerated if the advertisement or the digital content were posted, and/or because the Examiner has not shown how the advertisement or the digital

content, if posted on a computer, could be moved in a way that would satisfy the objectives of the Yamanaka published application, the Examiner has not made out a *prima facie* case of obviousness of independent claim 29.

For this reason also, independent claim 29 is patentable over the Yamanaka published application.

Independent claim 41 is directed to an arrangement of first, second, and third sites. The first site is a content provider site coupled to a network, the first site executes first program code for the posting of a note on a web page of the content provider, the first site is operated by a content provider, and the content provider is a first party. The second site is a content recipient site coupled to the network, the second site executes second program code so as to download the note separately from the web page without resort to a cut or copy operation, the second program code is compliant with the note posted at the first site, the second site is operated by a content recipient, and the content recipient is a second party. The third site is operated by a third party, and the third site receives payment based upon the note posted at the first site.

As indicated above, the Examiner is apparently suggesting that the advertisement disclosed in the

Yamanaka published application is the note of independent claim 41. Assuming then that the advertisement is somehow posted at the holder, the distributor, the advertiser, or the administrator, the Examiner does not then show how the Yamanaka published application further suggests downloading the advertisement separately from the web page on which the advertisement is posted to the user without resort to a cut or copy operation. Indeed, the Examiner is completely silent on this aspect of the invention.

If, on the other hand, the Examiner is suggesting that the digital content disclosed in the Yamanaka published application is the note of independent claim 41, then the Examiner does not show how the Yamanaka published application further suggests downloading the digital content to the user separately from the web page on which the digital content is posted without resort to a cut or copy operation. As indicated above, the Examiner is completely silent on this aspect of the invention.

Accordingly, because the invention of independent claim 41 is neither disclosed in nor suggested by the Yamanaka published application,

independent claim 41 is patentable over the Yamanaka published application.

Moreover, as discussed above, neither the advertisement nor the digital content is posted at any site. The Examiner asserts that such would have been obvious in order to accelerate the use of digital content and the collection of the execution fee.

Again, applicants have a number of problems with this assertion as discussed above. Because of these problems, the Examiner has not made out a *prima facie* case of obviousness of independent claim 41.

For this reason also, independent claim 41 is patentable over the Yamanaka published application.

Independent claim 81 is directed to a method in which a note posted on a first computer at a content provider is electronically downloaded from the content provider to a content recipient, and in which an activity is electronically engaged in related to the note. The activity is performed by the content recipient on a second computer, the content provider is a first party, and the content recipient is a second party. Payment is provided based upon the activity.

As discussed above, neither the advertisement nor the digital content is posted at any site. The

Examiner asserts that such posting would have been obvious in order to accelerate the use of digital content and the collection of the execution fee. However, this assertion is a mere conclusion. The Examiner does not show how the use of digital content and the collection of the execution fee are accelerated. Indeed, the use of digital content and the collection of the execution fee would not be accelerated if the advertisement or the digital content were somehow posted. The number of parties involved in moving content to the user alone would inherently prevent such acceleration.

Also, the Examiner does not show how the advertisement or the digital content, if posted on a computer, could be moved through the network disclosed in the Yamanaka published application. The Examiner merely assumes that the advertisement or the digital content, if posted on a computer, could be moved in a way that would satisfy the objectives of the Yamanaka published application.

Because the Examiner has not shown how the use of digital content and the collection of the execution fee could be accelerated if the advertisement or the digital content were posted, and/or because the Examiner has not shown how the advertisement or the digital

content, if posted on a computer, could be moved in a way that would satisfy the objectives of the Yamanaka published application, the Examiner has not made out a *prima facie* case of obviousness of independent claim 81.

For this reason, independent claim 81 is patentable over the Yamanaka published application.

Dependent claims 70, 72, and 74 recite that the note has an attachment characteristic such that the note is attachable to a window by a drag and drop operation. The Examiner takes Official Notice that drag and drop operations are well known. The Examiner goes on to then argue that incorporation of a drag and drop operation into the arrangement disclosed in the Yamanaka published application would have been obvious in order to accelerate the use of digital content and the collection of the execution fee.

However, the Examiner does not disclose what content is to be dragged and dropped into what other content disclosed in the Yamanaka published application. Therefore, applicants can only conclude that the Examiner's argument lacks substance and cannot provide a *prima facie* showing of obviousness.

Moreover, the Examiner states a mere conclusion about dragging and dropping so as to accelerate the use

of digital content and the collection of the execution fee. The Examiner does not show how the use of digital content and the collection of the execution fee would be accelerated.

Also, as explained above, the Examiner does not state what content is to be dragged and dropped into what other content. Therefore, it is impossible to tell whether dragging and dropping would accelerate the use of digital content and the collection of the execution fee.

Because the Examiner has not shown how the use of digital content and the collection of the execution fee would be accelerated by a dragging and dropping operation, and/or because it is impossible to tell whether dragging and dropping would accelerate the use of digital content and the collection of the execution fee based on the Examiner's argument as stated, the Examiner has not made out a *prima facie* case of obviousness of dependent claims 70, 72, and 74.

Therefore, dependent claims 70, 72, and 74 are patentable over the Yamanaka published application.

Dependent claims 78, 79, and 80 recite that the note can be automatically downloaded to the content recipient separately from the web page.

The Examiner does not specifically argue these claims. The Examiner merely lumps these claims in with the rejection of independent claim 1. However, independent claim 1 does not recite that content is automatically downloaded.

Indeed, the system described in the Yamanaka published application dictates that each download be manually initiated so that control can be exercised to insure payment. Therefore, the system described in the Yamanaka published application cannot be automatic. Consequently, the inventions of dependent claims 78, 79, and 80 could not have been obvious over the Yamanaka published application.

For this reason, dependent claims 78, 79, and 80 are patentable over the Yamanaka published application.

Dependent claim 85 recites that the electronically downloaded note contains content, that the content suggests the activity, and that the activity that is electronically engaged is suggested by the content of the note.

The Yamanaka published application does not disclose or suggest electronic engagement in any activity

where the activity is suggested by the content of the advertisement or the digital content.

Therefore, dependent claim 85 is patentable over the Yamanaka published application.

CONCLUSION

In view of the above, the claims of the present application patentably distinguish over the art applied by the Examiner. Accordingly, allowance of these claims and issuance of the present application are respectfully requested.

Respectfully submitted,

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